



USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11/2/2020

Attorneys at Law

Jennifer M. Horowitz  
t 212.351.4622  
f 212.878.8600  
JHorowitz@ebglaw.com

November 2, 2020

**VIA ECF**

Hon. Analisa Torres  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Vidal Solar et al. v. Fresh Direct, LLC et al.*  
Case No. 1:20-cv-03431 (AT)  
**Letter Motion-On Consent**

Dear Judge Torres:

Our firm represents defendants Fresh Direct, LLC and Fresh Direct Holdings, Inc. (“Defendants”), in the above referenced action. We write jointly with Plaintiffs to respectfully request a further adjournment of the Court’s initial pretrial conference, currently scheduled for November 10, 2020, in contemplation of mediation.

The parties have been working collaboratively to collect the information necessary for a productive mediation, including applicant data for the entire 2015 to 2020 class period. This has been a time intensive task, involving the collection and compilation of data for thousands of applicants, over multiple years, and from multiple consumer reporting agencies. Unfortunately, because Defendants do not maintain an applicant database containing all of this information, it is not a turnkey exercise to produce the relevant data. Defendants have devoted substantial time, effort and resources to manually create readable excel sheets with all of the relevant applicant data.

While the parties had hoped to have already completed this time and labor intensive process, given the sheer volume of data, Defendants have been unable to complete the process as of yet. To date, Defendants have compiled data in a useable format for the years 2016, 2017 and part of 2018, and will be providing Plaintiffs with that data within the next week. We anticipate the data for the latter part of 2018, as well as all of 2019 and the first half of 2020 will be available within a few weeks.

We do not believe that the mediation will be productive if the parties do not have the applicant data and ample time to analyze that data. Accordingly, the parties have asked Mr.

November 2, 2020

Page 2

Sonnenberg to reschedule the October 23, 2020 mediation and we are in the process of selecting a new date, which we expect will likely be in late December or January. We will advise the Court as soon as Mr. Sonnenberg and the parties confirm the rescheduled date.

In furtherance of the parties' good faith efforts to mediate and resolve this dispute pre-litigation, the parties respectfully request that the Court adjourn the deadlines for the November 3, 2020 status letter and the November 10, 2020 initial pretrial conference to a date to be set, after the mediation. An extension will not unduly delay the litigation because the information that Defendants are collecting in contemplation of mediation would also need to be collected as part of discovery.

This is the parties' third request to adjourn these deadlines. On July 17, 2020, the parties submitted a letter advising the Court of a September 11, 2020 mediation with mediator Stephen Sonnenberg and requesting an adjournment of their August 28, 2020 initial pretrial conference in light of that mediation. *See* ECF No. 23. On July 20, 2020, the Court granted the parties' request and adjourned the conference to October 1, 2020, with a joint status letter to be submitted by the parties by September 24, 2020. *See* ECF No. 24. On September 15, 2020, the parties requested that the Court adjourn the October 1, 2020 conference, and the Court granted the parties' request and adjourned the conference to November 10, 2020, with a joint status letter to be submitted by the parties by November 3, 2020. *See* ECF Nos. 26 and 27.

We thank the Court for its attention in this matter.

Respectfully,

GRANTED. The conference scheduled for November 10, 2020, is ADJOURNED to **January 18, 2021, at 10:00 a.m.** By **January 11, 2021**, parties shall submit a joint status letter and case management plan.

/s/ Jennifer M. Horowitz

Jennifer M. Horowitz

SO ORDERED.

Dated: November 2, 2020

New York, New York



---

ANALISA TORRES  
United States District Judge